



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

June 21, 2016

Ordinance 18306

Proposed No. 2016-0136.3

Sponsors Dunn

1 AN ORDINANCE authorizing the King County executive
2 to enter into a ten-year concession agreement with two
3 five-year extensions between King County and Go Ape
4 Cougar-Squak LLC for construction and operation of a
5 treetop adventure course by Go Ape Cougar-Squak LLC.

6 STATEMENT OF FACTS:

- 7 1. The Parks Business Plan directs the parks and recreation division of the
8 department of natural resources and parks to work in partnership with
9 organizations to provide new recreational amenities that generate revenue
10 for parks.
- 11 2. Go Ape Cougar-Squak LLC ("Go Ape") is an experienced, world-wide
12 provider of treetop adventure courses, and since 2009, has successfully
13 developed and operated facilities on publicly owned land in twelve states.
- 14 3. King County supports Go Ape's desire to construct and operate a new
15 outdoor recreation facility in King County to provide a regional venue for
16 King County residents to participate in outdoor recreational activities, and
17 engage in environmental education and personal development
18 programming.

19 4. Go Ape is committed to supporting underserved and special needs
20 communities, particularly for youth, to experience nontraditional outdoor
21 recreation activities, improve leadership efficacy and provide forest
22 ecology and environmental stewardship education.

23 5. King County and Go Ape desire to enter into a ten-year concession
24 agreement with two five-year extensions that will authorize Go Ape to
25 construct and operate the treetop adventure course described in
26 Attachment A to this ordinance at Cougar-Squak Corridor park, located in
27 Issaquah, which will provide the parks and recreation division with long-
28 term revenue.

29 6. Go Ape will bear the full cost and expense of developing and operating
30 the new recreational facility, with an estimated capital investment of
31 approximately nine hundred thousand dollars, in accordance with the
32 terms of Attachment A to this ordinance.

33 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

34 SECTION 1. The King County executive is hereby authorized to enter into a
35 concession agreement between the King County parks and recreation division and Go
36 Ape Cougar-Squak LLC, substantially in the form of Attachment A to this ordinance, for

37 Go Ape Cougar-Squak LLC to construct and operate a treetop adventure course on
38 property at Cougar-Squak Corridor park.

39

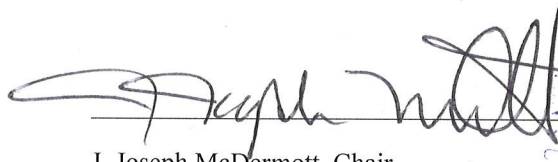
Ordinance 18306 was introduced on 4/4/2016 and passed as amended by the
Metropolitan King County Council on 6/20/2016, by the following vote:

Yes: 9 - Mr. von Reichbauer, Mr. Gossett, Ms. Lambert, Mr. Dunn,
Mr. McDermott, Mr. Dembowski, Mr. Upthegrove, Ms. Kohl-Welles
and Ms. Balducci

No: 0

Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



J. Joseph McDermott, Chair

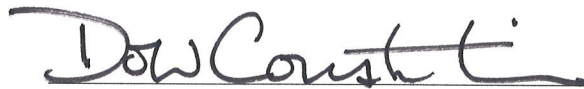
ATTEST:



Anne Noris, Clerk of the Council

RECEIVED
2016 JUN 29 PM 3:51
CLERK
KING COUNTY COUNCIL

APPROVED this 28 day of JUNE, 2016.



Dow Constantine, County Executive

Attachments: A. Concession Agreement Between King County Parks and Recreation Division and Go
Ape Cougar-Squak LLC, Revised June 20, 2016

CONCESSION AGREEMENT
Between
King County Parks and Recreation Division
and
Go Ape Cougar-Squak LLC

THIS CONCESSION AGREEMENT ("Agreement") is made and entered into by and between King County (the "County" or "King County"), a home rule charter county and political subdivision of the State of Washington, through the Parks and Recreation Division of the Department of Natural Resources and Parks, and **Go Ape Cougar-Squak LLC** ("Concessionaire") (collectively, the "Parties"), a limited liability corporation organized under the laws of the State of Washington and having its usual place of business at 241 East 4th Street, Suite 105, Frederick MD 21701.

Recitals

- A. King County is the owner and operator of the Cougar Squak Corridor Park (parcel numbers 062306-9052 and 062306-9031), located at 10610 Renton-Issaquah Road SE, Issaquah, Washington, 98072 (the "Park"). Prior to acquisition by King County on January 28, 2014, the Park was known as the Issaquah Highlands Recreational Club.
- B. Concessionaire is an experienced treetop adventure course provider and, through related business entities, has successfully developed and operated twelve similar recreational facilities in partnership with municipal and state parks departments throughout the United States since 2009.
- C. Concessionaire has the demonstrated experience, ability, and resources to develop and operate a treetop adventure course facility for public use.
- D. King County has determined that constructing such a facility will have significant public recreational value and will provide financial support to the Parks and Recreation Division for county wide operations, and for planned Park infrastructure improvements, such as an Americans with Disabilities Act ("ADA") accessible restroom facility and additional parking.
- E. Pursuant to Chapter 4.57 King County Code ("KCC"), the Parks and Recreation Division of the Department of Natural Resources and Parks, an agency of King County, is authorized to enter into concession agreements on behalf of King County.
- F. Allowing Concessionaire to develop certain mutually-agreed upon improvements, including a treetop adventure course, and a small modular office in the Park for operational purposes, will provide a significant public recreation amenity.

THEREFORE, in consideration of the mutual agreements herein contained, the Parties do hereby agree as follows:

- 1. PARK. "Park" means the public park owned and operated by the County, as shown in **Exhibit A**, where Concessionaire shall install and operate the Facility.
- 2. FACILITY. "Facility" means the treetop adventure course, consisting of zip lines, elevated swings, obstacles and walkways, related tree canopy infrastructure installed by

Concessionaire, an ADA accessible modular office installed and operated by Concessionaire, and the property containing the adventure course, and other infrastructure, including any trade fixtures or personal property. These items shall be included within the meaning of Facility. The Facility will be located within the Grounds, as shown in **Exhibit B**. The Facility shall also include a youth-oriented adventure course if subsequently developed pursuant to Section 5.A.1.

3. GROUNDS. "Grounds" means the real property, personal property, including landscaping, trees, an ADA accessible restroom, a dedicated Facility parking area, and general public parking, owned, operated, and maintained by the County. The Grounds comprise all of parcel number 0623069052 and extend approximately 1,000 feet onto parcel number 0623069031, as generally depicted in Exhibit A-1. The Facility will be located within the Grounds, as depicted in **Exhibit B**.
4. COMMON AREA. "Common Area" means the area within a ten (10) foot perimeter around and below the Facility, in which Park users, Concessionaire patrons, guests, employees, and authorized representatives, and County employees have access.
5. USE.
 - A. Facility. Concessionaire shall design, construct and operate the Facility on the Grounds, as set forth in this Agreement. During the Term of this Agreement, Concessionaire shall not use the Facility for any other purpose than that shown on **Exhibit D** without prior written consent of the County's Liaison.
 1. Youth-Oriented Adventure Course. Subject to the County's written consent, and on such additional or amended Agreement terms and conditions as the County may require, during the Term (as defined in Section 7) Concessionaire may, as part of the Facility and at its sole cost and liability, design, construct and operate a youth-oriented adventure course, as generally depicted on **Exhibit B**.
 - B. Common Area. Except as provided in Section 5.B.2, Concessionaire and its patrons, guests, employees, and authorized representatives shall have the nonexclusive right to use the Common Area with others who are entitled to use the Common Area, subject to the conditions of this Agreement.
 1. Maintenance and Management. Except as provided in Section 5.B.2, County shall maintain and manage the Common Area, with the assistance of Concessionaire, in accordance with Section 17.G. Concessionaire agrees to conform to all County rules and regulations pertaining to the Common Area.
 2. Exclusive Use. Within the Common Area, Concessionaire shall have exclusive use of the ADA accessible modular office; airspace above and below the Facility's elevated components; and fenced-in course areas within the Common Area, in accordance with Section 17.A. Also provided that the County is under no obligation to enforce the Concessionaire's right to exclusive use against Park users and shall not be liable to the Concessionaire if Park users enter into the Concessionaire's exclusive use areas within the Common Area. The Concessionaire shall be responsible for advising others of its exclusive use areas.

- C. Park Access and Restrooms. Concessionaire and its patrons, guests, employees, and authorized representatives may enter and exit the Park and access the Facility at all times the Park is open to the public. Concessionaire, its patrons, guests, employees, and authorized representatives may use public restroom facilities at the Park when such restroom facilities are open and available to the public.
6. SERVICES, MERCHANDISE, AND PRICING. Concessionaire is authorized to provide only those goods and services set forth, and at the prices specified in **Exhibit D**. Concessionaire shall have ready for sale all services and articles shown in **Exhibit D** sufficient to satisfy the reasonably foreseeable demand of patrons and guests during operating hours and days of operation. For the duration of this Agreement, Concessionaire shall be required to obtain the consent of the County for any change in the prices of the goods or services if such increase shall: (1) exceed ten percent (10%) of the current price of such goods or services, or (2) occur within twelve (12) months of a prior price increase.
7. EFFECTIVE DATE; TERM; EXTENSION.
- A. Effective Date. This Agreement shall be effective upon signature by both Parties (“Effective Date”).
- B. Term. The term (“Term”) of this Agreement shall commence on the Effective Date and shall remain in force and effect until the tenth (10th) anniversary of the date that Concessionaire opens for business at the Facility (said date to be confirmed by the Parties and attached to this Agreement as **Exhibit H**), unless sooner terminated or extended.
- C. Extension(s). Subject to the terms and conditions of this Agreement, the Term may be extended for two (2) successive five (5) year periods, PROVIDED that Concessionaire is not in default of any of the terms and conditions of this Agreement beyond the expiration of any applicable grace or cure period. The Term shall be deemed extended as allowed under this Section, unless one Party notifies the other in writing not less than one-hundred-eighty (180) days prior to the expiration of the Term or expiration of the first extension period, as applicable, that this Agreement shall not be extended. All of the terms and conditions of this Agreement as it may be amended from time to time shall apply during any extension period.
8. CONTRACT FEES; PAYMENT.
- A. Contract Fees. For the period beginning on the Effective Date through the end of the calendar year, Concessionaire shall pay to County a percentage (%) of Gross Receipts, pursuant to the table in Section 8.A.3. Through the remainder of the Term, Concessionaire shall pay to County on an annual basis, the *greater of* the Annual Minimum, as set forth in Section 8.A.1, or the percentage (“%”) of Gross Receipts, pursuant to the table in Section 8.A.3.
1. “Annual Minimum” means the annual minimum payment Concessionaire shall remit to County during the Term of this Agreement. The Annual Minimum shall be TWENTY-THOUSAND DOLLARS (\$20,000), and shall be increased annually by 100 percent of the Seattle-Tacoma-Bremerton Consumer Price Index, All Items, 1982-84=100 for All Urban Consumers (“CPI”). For clarity, and to illustrate the calculation of annual CPI increases on the Annual

Minimum: CPI for December 2015 would be used to calculate the Annual Minimum value for 2016; CPI for December 2016 would be used to calculate the Annual Minimum value for 2017; and so forth.

2. “Gross Receipts” means the Concessionaire’s total receipts from operating the Facility in the Park, excluding only:
 - a. Refunds or credits given to Concessionaire’s patrons and guests, including for example, amounts for defective or unsatisfactory goods or services, provided that the refund or credit must not exceed the sale price of the goods or the charges for the services;
 - b. Washington State sales tax and/or business and occupation tax imposed directly on Concessionaire in respect to the supply of goods and services referred to in this Agreement and actually paid by the Concessionaire to the taxing authorities.
3. For purposes of determining the contract fee in Section 8.A, the percentage of Gross Receipts shall be as follows:

When annual total receipts are:	Gross Receipts % payable to County is:
< \$800,000	3.0%
>= \$800,000 - \$900,000	5.0%
> \$900,000 - \$1,000,000	7.0%
> \$1,000,000 - \$1,200,000	8.0%
> \$1,200,000 - \$1,500,000	10.0%
> \$1,500,000 - \$1,750,000	12.0%
> \$1,750,000	15.0%

- B. Timing and Structure of Payments. Concessionaire shall remit the contract fee to County, plus any leasehold excise tax on the contract fee (currently 12.84%) imposed under chapter 82.29A RCW, each calendar year during the Term of this Agreement on or before December 15. Concessionaire shall submit with each payment a signed statement, in the form of the Gross Receipts Report attached hereto as **Exhibit G**, attesting to the total receipts for the particular payment. Concessionaire shall make the payment of the total contract fees and leasehold excise tax payable to King County Parks and shall deliver the quarterly payment and reporting forms to:

KING COUNTY PARKS
Attention: Regional Scheduling
201 S. Jackson Street, #700
Seattle, Washington 98104

- C. Late Payments. There will be a collection charge of FIFTY DOLLARS (\$50.00) for any late payment. In addition, ONE HALF OF ONE PERCENT (.05%) per month interest will be charged for any delinquent payment not delivered to the County by the tenth (10th) of the following month.

9. TAXES AND ASSESSMENTS; LEASEHOLD EXCISE TAX. Concessionaire shall pay on a current basis all taxes or assessments levied on its activities, except that Concessionaire shall have the right to contest any such tax or assessment. Concessionaire shall not be deemed to be in default as long as it shall in good faith be contesting the validity or amount of any such tax or assessment. Except with respect to leasehold excise taxes, Concessionaire shall be responsible for collecting and remitting any amounts owed pursuant to this section. Any statutory leasehold excise tax imposed pursuant to Chapter 82.29A RCW shall be paid directly to the County in accordance with Section 8.B. If Concessionaire seeks an exemption from the application of leasehold excise tax, it shall provide proof of exemption from the Washington State Department of Revenue on or prior to the Effective Date. Concessionaire agrees for itself, its successors, and assigns to defend, indemnify and hold harmless the County, its appointed and elected officials, and employees from and against liability for any costs or claims for unpaid taxes and assessments owed by Concessionaire.
10. UTILITIES. Concessionaire shall be responsible for all cost associated with installing, connecting or relocating utilities or services, including inspection of the same, for purposes of operating the Facility, except that the County shall provide a telephone line stub-out on the Grounds. Concessionaire shall pay all charges for each utility or service provided to the Facility, (including, but not limited to, heat, light, water, electrical, telephone service, garbage collection and data lines) so that the same shall not become a lien against the Facility, the Grounds or the Park. Concessionaire shall pay such charges when due, to the provider of such utility or service or, to the extent Concessionaire connects to County's existing utilities and/or services for any utilities or services, directly County at County's election.
11. SECURITY AND DAMAGE DEPOSIT. The Concessionaire shall deposit with the County the sum of SEVEN-THOUSAND-FIVE-HUNDRED DOLLARS (\$7,500.00) as a security and damage deposit ("Security Deposit") for the payment of contract fees and taxes and any damages to the Park for which the Concessionaire is responsible and for any restoration of damage or cleaning of the Park that the Concessionaire has not completed when the Concessionaire vacates, provided County shall give Concessionaire written notice detailing any such damage and/or necessary cleaning and Concessionaire shall have fifteen (15) business days to cure such damage and/or complete such cleaning. Within sixty (60) days after termination of the use and vacation of the Park the County will return any portion of the Security Deposit due the Concessionaire. The Concessionaire understands and agrees that unless paid by the Concessionaire, amounts may be deducted from the Security Deposit for damage and cleaning at the time of Concessionaire's vacation of the Park if any amount remains in the Security Deposit after subtraction for contract fees and taxes owing; PROVIDED County shall give Concessionaire written notice detailing any such damage and Concessionaire shall have fifteen (15) business days to cure such damage. The Security Deposit need not be held in any special account and no interest will be paid thereon.
12. MAINTENANCE OF RECORDS AND INSPECTIONS. Concessionaire shall keep: accurate books and accounts of all matters on which contract fees and other payments are computed and ascertained; and all records regarding compliance with the nondiscrimination regulations and requirements referenced in Sections 41-44. Such books,

accounts and records shall be retained, open, and available for inspection by the County upon forty-eight (48) hours' written notice during the Term of this Agreement, and not less than six (6) years after its expiration or termination.

13. CONDITION OF GROUNDS AND CONSTRUCTION DEFECTS. Concessionaire has inspected and knows the condition of the Grounds, and it is understood and agreed that the Grounds are taken on an "as is" basis without any obligation on the part of the County to make any changes, improvements, or to incur any expenses whatsoever to prepare, repair, or alter the Grounds to facilitate Concessionaire's construction and operation of the Facility, other than those specifically required by this Agreement. County shall not be liable to the Concessionaire for claims or damages arising from any defect in the construction of or the condition of the Grounds at the time Concessionaire assumes occupancy, whether known or unknown, or for damage by storm, rain, or leakage or any other occurrence.

14. CONCESSIONAIRE IMPROVEMENTS AND ALTERATIONS TO THE GROUNDS.

- A. Facility. Concessionaire shall design, develop, and construct Facility features and amenities in accordance with all applicable design(s), timelines, restrictions, environmental considerations, permitting determinations, and mitigations. All such activities and improvements shall be performed by Concessionaire at its sole expense and liability.
- B. Design. Concessionaire shall submit to the County for its review, comment and approval, detailed design and construction plans and specifications for Concessionaire's proposed Facility, including any proposed improvements to the Grounds (collectively the "Plans"), all of which shall meet or exceed applicable guidelines and standards established by Association for Challenge Course Technology ("ACCT").

Notwithstanding anything contained herein to the contrary, in the event that County does not approve the Plans or if County requests material or substantive changes to the Plans with which Concessionaire does not agree, then Concessionaire may terminate this Agreement, and the Security Deposit and all monies paid by Concessionaire to the County's Parks and Recreation Division will be returned, and neither party will have any liability under this Agreement.

1. Concessionaire shall provide County with a copy of all proposed changes to the approved Plans for County review, comment and approval.
2. County's review of and comment on the Plans for the Facility shall not relieve Concessionaire of its responsibility for the Facility design and construction. Concessionaire shall have sole responsibility for design and construction of the Facility. In addition, Concessionaire acknowledges and agrees that County's review, comment, disapproval, approval, or acceptance of the Plans:
 - a. Exist solely for the benefit and protection of County and its employees and authorized representatives;
 - b. Do not create or impose on County or its employees and agents any standard or duty of care towards Concessionaire, all of which are hereby disclaimed;

- c. May not be relied on by Concessionaire in determining whether Concessionaire has satisfied all applicable standards and requirements; and
 - d. Neither the exercise nor the failure to exercise any rights by County under this Section 14.B may be asserted against County or its employees and authorized representatives by the Concessionaire as a defense, legal or equitable, to Concessionaire's obligation to fulfill such standards and requirements, notwithstanding any approval of the Plans by County or its employees or authorized representatives.
- C. Permits. Following receipt of County's approval, pursuant to Section 14.B, Concessionaire shall apply for and secure all necessary permits through the King County Department of Permitting and Environmental Review, and such other agencies as may be required to be obtained in connection with design and construction of the Facility.
- D. Construction. Concessionaire shall be entitled to exclusive possession and use of a portion of the Grounds designated for construction of the Facility during the construction phase, subject to the County's entry, inspection, and audit rights under Sections 12, 30, and 35 of this Agreement ("Construction Work Area"). This right of exclusive possession and use by Concessionaire for the Construction Work Area, including the portion of the Grounds and the time period for which the Concessionaire is requesting exclusive possession and use, shall be submitted in writing for County review and approval before commencement of construction. Concessionaire shall ensure that this Construction Work Area is properly restricted, and shall ensure that signage is installed directing unauthorized persons not to enter onto the Construction Work Area during any phase of construction. Unless otherwise agreed by the Parties in writing, fencing will be placed around the Construction Work Area. In addition, the Construction Work Area will be kept clean and organized during construction. Concessionaire will be responsible for site security, traffic, and pedestrian warnings at the Construction Work Area during the construction phase. Concessionaire shall indemnify and hold the County harmless for any claims, demands, suits and judgments, including costs of defense thereof for injury to persons, death or property damage during the construction of the Facility in accordance with Section 24.
- E. Post Construction Alterations or Improvements. After completion of construction of the Facility, Concessionaire shall make no alterations or improvements to or upon the Grounds, or install any fixtures (other than trade fixtures which can be removed without injury to the Grounds) without prior written notification to the County, excepting only those emergency alterations or improvements deemed necessary by Concessionaire for which Concessionaire shall notify County in a timely manner. In the event that any request is submitted and the County does not respond by approving, denying or requesting more information within ten (10) business days after such request, the County shall be deemed to have approved such request. The alterations or improvements will be at Concessionaire's sole cost and approval may be conditioned on inspections and approval of improvements by the County, supplying as-built drawings, and other reasonable requirements imposed by the County.

- F. Ownership of On-Ground Improvements Upon Expiration or Termination. Unless otherwise stipulated in writing by the Parties, all on-ground improvements or alterations, including modular structures installed and operated by Concessionaire, shall, upon expiration or earlier termination of this Agreement, belong to the County. However, the County shall have the option, to be exercised on expiration or earlier termination of the Agreement, to require the Concessionaire, at Concessionaire's expense, to remove any or all such improvements or alterations and to require Concessionaire to return the property to its original condition as reasonably practicable taking into account the nature of the improvements or alterations which were installed for the adventure course.
- G. Professional Service Contractors and Contractor Indemnification and Hold Harmless. Concessionaire will require its professional service providers (including but not limited to architectural and engineering consultants), construction contractors and subcontractors to defend, indemnify and hold King County, its officers, officials, employees, and volunteers harmless from any and all claims, injuries, damages, losses, or suits including attorney's fees and costs, arising out of or in connection with the design and construction of the Facility, except for injuries and damages caused solely by the gross negligence or willful misconduct of King County, its authorized representatives, contractors and their employees. In the event it is determined that RCW 4.24.115 applies to this Agreement, the Concessionaire agrees to defend, hold harmless, and indemnify King County to the maximum extent permitted thereunder, and specifically for its negligence concurrent with that of King County to the full extent of their negligence. Concessionaire agrees to defend, indemnify, and hold harmless the County for claims by Concessionaire employees and agrees to waiver of its immunity under Title 51 RCW, which waiver has been mutually negotiated by the Parties.
- H. Commercial General Liability Insurance. Concessionaire will require its professional service providers, construction contractors and subcontractors to procure and maintain, for the duration of construction of the Facility and a for a period of at minimum three (3) years following project completion, insurance against claims for injuries to persons or damage to property, which may arise from or in connection with the performance of the work hereunder by the professional service providers, construction contractors and subcontractors, their agents, representatives, or employees. All said policies will name King County as an additional insured to include Facility operations and products-completed operations for a period of at minimum three (3) years from project completion and will include a provision prohibiting cancellation or reduction in the amount of said policies except upon forty-five (45) days prior written notice to the County. Concessionaire will require its construction contractors to maintain minimum commercial general liability insurance limits of no less than THREE MILLION DOLLARS (\$3,000,000) each occurrence; THREE MILLION DOLLARS (\$3,000,000) general aggregate and a THREE MILLION DOLLARS (\$3,000,000) products-completed operations aggregate limit; business automobile coverage for a limit of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence; workers' compensation coverage as required by the Industrial Insurance Act of the State of Washington; and

Employers Liability/Stop Gap coverage in the amount of ONE MILLION DOLLARS (\$1,000,000).

- I. Builder's Risk Insurance. Concessionaire will require its construction contractors to procure and maintain, for the duration of the construction phase of the Facility, builder's risk insurance covering interests of the Concessionaire, King County and the construction contractor in the work. Builders risk insurance will be in the amount of the completed value of the Facility with no coinsurance provisions. Builder's risk insurance will be on an all-risk policy form and will insure against the perils of fire and extended coverage and physical loss or damage including flood and earthquake, theft, vandalism, malicious mischief, collapse, temporary buildings, and debris removal. Builder's risk insurance covering the work will have a deductible of no more than FIVE THOUSAND DOLLARS (\$5,000) for each occurrence, which will be the responsibility of the construction contractor. Higher deductibles for flood and earthquake perils may be accepted by County upon written request by Concessionaire and written acceptance by County. Any increased deductibles accepted by County will remain the responsibility of the construction contractor. Builder's Risk insurance will be maintained until final acceptance of the work by Concessionaire and County.
- J. Professional Errors and Omissions. Concessionaire must require its professional service providers to carry professional liability errors and omissions insurance in an amount of not less than THREE MILLION DOLLARS (\$3,000,000) per claim/aggregate. Concessionaire must require its professional service providers to provide copies of all insurance certificates or insurance policies to County prior to the initiation of work on the project.
- K. Subcontractors and Subconsultants. Concessionaire shall require its construction contractors to include all subcontractors and subconsultants as insured under its policies or will furnish separate certificates and endorsements for each subcontractor or subconsultant. All coverage for subcontractors and subconsultants will be subject to all of the same insurance requirements as stated herein for the construction contractor.
- L. Insurance Coverage Type and Duration. Each insurance policy must be written on an "occurrence" form; except that insurance on a "claims made" form may be acceptable with prior approval by the King County Office of Risk Management. If coverage is approved and purchased on a "claims made" basis, Concessionaire warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, for not less than three (3) years from the date of contract termination or expiration, and/or conversion from a "claims made" form to an "occurrence" coverage form.
- M. Verification of Coverage. Concessionaire will furnish County with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the commercial general liability insurance of the construction contractor before commencement of the work. Before any exposure to loss may occur, Concessionaire will file with County a copy of the builder's risk insurance policy that includes all applicable conditions, exclusions, definitions, terms, and endorsements related to work under this Agreement.

- N. Acceptability of Insurers. Unless otherwise approved by County, the following provisions apply exclusively during the Design and Construction Phase:
1. Insurance is to be placed with insurers with a Best's rating of no less than A:VIII, or, if not rated by Best's, with a rating in one of the two highest categories maintained by Standard & Poor's Rating Group and Moody's Investor Service.
 2. If at any time any of the foregoing policies fail to meet the above minimum standards, then Concessionaire will, upon notice to that effect from King County, promptly obtain a new policy, and submit the same to County with certificates and endorsements, for approvals.
 3. The required liability insurance policies (except Workers Compensation) are to be endorsed to:
 - a. Name "King County, its officers, officials, agents and employees" as additional insured with respect to use of the Site as outlined in this Agreement (Form CG 2026 or its current equivalent); Coverage shall include premises operations and products-completed operations and shall extend for a period of three (3) years after project completion;
 - b. Such coverage shall be primary and non-contributory insurance as respects King County;
 - c. State that Concessionaire's or its contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability;
 - d. State that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after forty-five (45) days prior written notice to King County.
- O. Waiver of Subrogation. Concessionaire will cause its contractors and subcontractors and their insurance carriers to release and waive all rights of subrogation against King County during the Design and Construction Phase to the extent a loss is covered by property insurance in force. Except as otherwise provided in Section 14 of this Agreement, Concessionaire hereby releases from liability and waives all right of recovery against King County for any loss from perils insured against or under the respective fire insurance policies of its contractors, subcontractors, or any of them, including any extended coverage endorsements thereto; provided, that this provision shall be inapplicable if it would have the effect of invalidating any insurance coverage of Concessionaire or County.
- P. Insurance Provisions Are Material Terms. By requiring such minimum insurance as described in this Section, County shall not be deemed or construed to have assessed the risks that may be applicable to Concessionaire under this Agreement. Concessionaire shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage. Nothing contained within this Section shall be deemed to limit the scope, application, and/or limits of the coverage afforded by the policies specified herein, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policies. Nothing contained within this Section shall effect and/or alter the application of any other provision contained within this Agreement. Failure by Concessionaire, ts employees,

contractors, and/or authorized representatives to comply with these insurance requirements shall constitute a material breach of this Agreement.

15. COUNTY IMPROVEMENTS TO THE PARK.

- A. Restroom. Prior to the date Concessionaire opens for business, the County shall install an on-site, ADA compliant restroom facility within five hundred (500) feet of the ADA accessible modular office operated by Concessionaire at the Facility. Concessionaire shall contribute TWENTY-FIVE THOUSAND DOLLARS (\$25,000) towards the installation cost of the restroom facility. Concessionaire shall be under no obligation to make the contribution until Concessionaire has obtained all licenses and permits to operate the treetop adventure course and the County has issued final approval of all Plans, as specified in Section 14.B.
- B. Parking. Subject to the dollar limitation in this Section 15.B, prior to the date Concessionaire opens for business, the County shall improve parking at the Park for use by the Concessionaire's patrons, guests, employees, and authorized representatives to accommodate a minimum of thirty-five (35) gravel parking spaces for the Facility. If Concessionaire constructs a Youth-Oriented Adventure Course, the County will install an additional ten (10) gravel parking spaces upon completion of the Youth-Oriented Adventure Course. The total cost of all parking improvements by the County shall not exceed ONE HUNDRED THOUSAND DOLLARS (\$100,000) during the Term.

16. SIGNS. No sign, advertisement, notice, or other lettering will be exhibited, inscribed, painted, or affixed by Concessionaire on any part of the Grounds or Facility without the prior written consent of the County, provided that such consent shall not be unreasonably withheld. County's consent shall not be required for course-related and directional signage necessary to operate the Facility that is pre-approved in advance by County for subsequent posting in the Park, Grounds, or Facility. If Concessionaire violates the provisions of this Section, County may remove the sign without any liability and may charge the expense incurred by such removal to Concessionaire provided, however, County shall give Concessionaire written notice of Concessionaire's violation and Concessionaire shall have forty-eight (48) hours after receiving said notice to comply with the terms of this Section. County shall be responsible for signage identifying the Facility at the Park entrance. All signs erected or installed by Concessionaire shall be subject to any federal, state or local statutes, ordinances or regulations applicable to signs.

- A. Interpretive Signage. In consultation with the County, Concessionaire shall produce and install interpretative signage for the Facility informing patrons, guests, employees, and authorized representatives about the ecological value and cultural history of the Park.

17. MAINTENANCE.

- A. Duty to Maintain. Concessionaire shall throughout the Term of this Agreement, and without cost or expense to the County, keep and maintain the Facility and all improvements, fixtures, modular office and equipment which may now or hereafter exist thereon, in a neat, clean, and sanitary condition. The Concessionaire shall at all times preserve the Facility in good and safe repair. In addition, Concessionaire shall

conduct regular inspections of the Facility in accordance with subsection D below, to ensure that there are no defects or damage to the Facility and that it remains in good working order. Maintenance, inspection and repair of the Facility are the sole responsibility of the Concessionaire.

- B. Reports. Concessionaire shall provide written reports of the maintenance and inspection of the Facility in compliance with this Section. If Concessionaire fails to provide written reports showing compliance or reports show noncompliance with the maintenance and inspection requirement of this Section, the County may suspend the Concessionaire's rights under this Agreement to operate the Facility until such repairs or maintenance are made by Concessionaire. The County shall notify the Concessionaire in writing of any suspension, except that the County may provide oral notice of suspension in the case of a potential for immediate injury or damage to County property.
- C. Reserved.
- D. Annual Inspections. Concessionaire shall, on an annual basis, engage an ACCT certified professional and a Washington State certified arborist to conduct thorough and complete inspections of the Facility, and provide proof of the annual inspections and proof that the Facility remains in good working order and safe for the intended use. Concessionaire shall provide reports and copies of such reports to the County. Annual inspections are the sole responsibility of the Concessionaire.
- E. Restrooms. County reserves the right to require Concessionaire to provide additional portable restrooms based on Facility attendance. Portable restrooms may not block any Park signs, roads, paths or trails.
- F. Janitorial Service. Concessionaire shall not cause any unnecessary labor by the County by reason of Concessionaire's carelessness or indifference in the preservation of good order and cleanliness of the Grounds, Common Area or the Facility. Concessionaire will provide all necessary cleaning products for operation of the Facility.
- G. Trash and Waste. County shall provide all trash containers necessary for Concessionaire's operation. Concessionaire and its employees shall collect trash, litter, and waste created by its business daily, and dispose of the same in a covered and secured dumpster that shall be maintained by the County. Concessionaire shall assist with waste removal in the Park by picking up trash within the Common Area, as defined in Section 4.
- H. Pest Extermination. Concessionaire may use and apply pesticides on installed Facility related infrastructure and Facility buildings, provided, that Concessionaire shall comply with all King County, Federal, State and local laws, rules and regulations regarding pesticides. Concessionaire shall consult County, and County's prior approval shall be required before Concessionaire may utilize termite or pest extermination services on trees or landscaping in the Park.
- I. Time of Repairs and Maintenance. Concessionaire shall carry out Concessionaire's permitted repair, maintenance, alterations, and improvements on the Grounds and Facility in a manner which will not interfere with the rights of other users of the Park, including, but not limited to, the County's employees.

- J. Volunteer Projects. Concessionaire shall conduct volunteer projects to remove invasive species and restore native plants in the Park. Concessionaire shall schedule and coordinate such projects under the direction of the Parks Division's Volunteer Coordinator and the County's Liaison.
18. CONCESSIONAIRE'S OPERATING HOURS.
- A. Facility Operating Hours. Concessionaire shall be open for business at times mutually agreed upon by the Parties, as set forth in **Exhibit D** attached to this Agreement. Concessionaire will be allowed into the Grounds for set-up not less than thirty (30) minutes prior to Park's operating hours and will be allowed to remain on the Grounds for closing and clean-up of the Facility not less than thirty (30) minutes after Park's operating hours. Concessionaire operating hours shall be posted on or adjacent to the Facility. Concessionaire shall secure the high ropes adventure course by appropriate means from third party damage or interference when not being used by Concessionaire. Upon close of business each day, Concessionaire shall ensure that Facility doors, ladders, ropes, elevated elements, are closed, locked, or otherwise secured before leaving the Grounds, and shall further ensure that all water faucets, electrical appliances and equipment are entirely shut off before Concessionaire or Concessionaire's employees leave the Facility. Concessionaire shall be solely responsible for any damage to the Facility, Grounds or Park caused by a failure to comply with this subsection.
- B. Special Events. "Special Events" shall mean those events in the Park that either require a Special Use Agreement or are permitted by existing contractual agreements between the County and third parties. During Special Events, Concessionaire shall be open for business as negotiated with the County's Liaison. Concessionaire will be allowed into the Park for set-up one (1) hour before a Special Event starting time and will be allowed to stay in the Park for closing and clean-up of the Facility not less than one (1) hour after the conclusion of such Special Event, unless other arrangements have been made with the County's Liaison. Notwithstanding anything contained in this Agreement to the contrary, County shall not schedule Special Events that impair Concessionaire's ability to operate the Facility more than twice a year.
- C. County Authority to Set Park Operating Hours and Close Park. Notwithstanding any other provision of this Agreement, County reserves the right to decide, in its sole discretion, the Park's operating hours. Concessionaire shall adjust its hours of operation accordingly and the County shall not be liable for damages to Concessionaire, its employees or agents as a result of any change in the Park's operating hours. County shall issue an annual schedule of operations for the Park and shall provide that schedule to Concessionaire thirty (30) days before the start of the subject year. The County shall make reasonable efforts to give Concessionaire sixty (60) days' notice of any change to the then-current schedule. Notwithstanding anything contained herein to the contrary, County shall use reasonable efforts to keep the Park open so that Concessionaire may be open for business for a minimum of eight (8) hours a day during non-peak and holidays and a minimum of ten (10) hours a day during the months of June, July and August.

The County reserves and retains the right to close the Park or any portion thereof immediately in case of an emergency. In the event of any such emergency, County

will use its best efforts to open the Park or any such portion thereof that was closed as soon as reasonably practicable. The County shall not be liable for damages to Concessionaire, its employees or agents as a result of such closure.

19. OPERATION OF FACILITY. Concessionaire shall keep the Facility open and use the Facility to transact business with the public in accordance with Section 18 and **Exhibit D, except when weather and lack of demand causes a burden on the Concessionaire to remain open.** Subject to the prior written approval of the County, the Concessionaire may close the Facility or any portion thereof for a reasonable period for repairs or remodeling, for taking inventory, or to accommodate the construction by the County of public improvements, provided that a written notice of such impending closure is posted by Concessionaire in a conspicuous place at the Facility for at least one (1) week immediately prior to the closure date. Concessionaire may close the Facility or any portion thereof for a reasonable period in an emergency without the approval of the County. County reserves the right, without assuming liability or duty of care, to close the Facility or any portion thereof for a reasonable period in an emergency, or in the case of an event which would cause imminent harm to a person, without the approval of Concessionaire.
 - A. Community Outreach and Education. Concessionaire shall: (1) directly or in conjunction with a third party provide outdoor and environmental education for youth at the Facility, and offer discounted Facility access to underserved youth groups during the summer months; and (2) provide annually five-hundred (500) complimentary treetop adventure experiences to underserved community groups and not-for-profit organizations located within King County.
20. ACCESS TO FACILITY DURING NON-OPERATING HOURS. During hours the Park is not open to the public, the County may refuse the Concessionaire, its authorized representatives or employees access to the Facility unless it is an emergency or the person seeking access has received permission to enter from the County or its Liaison. The County shall in no case be liable for damages with regard to the admission to or exclusion from the Facility of any person. In case of invasion, mob, riot, public excitement, or other commotion or any structural damage from any cause whatsoever, the County reserves the right to prevent access to all or part of the Park, the Grounds, the Common Area, or the Facility, in its sole discretion, in order to protect the public health, safety, or welfare. However, nothing in this Agreement shall obligate the County to provide security or to protect the Facility or its contents at any time, or to monitor access to it.
21. CONCESSIONAIRE'S CONDUCT
 - A. Standards. Concessionaire recognizes that, although it is operating its business as an independent operator for profit, the County is a provider of park and recreation facilities for the use and enjoyment of the general public. The Concessionaire, its authorized representatives and employees will devote their efforts toward rendering courteous service to the public as though they were employees of the County, with a view of enhancing the enjoyment of the patrons, guests, employees, and authorized representatives of this recreational facility.

Concessionaire shall operate and conduct services at the Facility in a safe, environmentally sound, and businesslike manner, and will not permit any acts or

conduct on the part of the Concessionaire's employees that would be detrimental to the County's operation of the Park. Concessionaire's employees shall be persons of good moral character and shall be neat and clean in appearance.

- B. Emergency Information. Concessionaire must provide the County with names and telephone numbers to contact in case of emergency. Concessionaire must fill out an emergency information sheet and return it to the County's Liaison. The completed emergency information form shall be incorporated into this Agreement as **Exhibit E**.
- C. Access. The Park's exits, entrances, pathways, trails, and roads shall not be obstructed by the Concessionaire or used by them for any purpose other than for ingress to and egress from the Facility during business hours. This includes obstructing entrances, exits, and pathways with furniture, trash or deliveries that could be construed as unsightly or unsafe.
- D. Locks and Keys. To provide the Fire Department access to the Facility in case of an emergency, Concessionaire will provide, at its sole expense, a spare key in a Knox Box mounted next to the side entry door on the outside wall of the ADA accessible modular office.
- E. Deliveries and Moving Materials within Facility. Concessionaire's initial move in and subsequent deliveries of bulky items, such as furniture, safes and similar items, unless otherwise agreed in writing by the County, will be made at times with the least impact on Park users. No deliveries shall be made which impede or interfere with other Park users. Concessionaire shall be solely liable for any and all damage resulting from the above activities. County and Concessionaire will mutually agree on designating a restricted loading zone for delivery truck access to the Facility.
- F. Unapproved Equipment. Concessionaire shall not install, operate or maintain, in, on or around the Grounds or Facility, any electrical equipment which does not pass a State Electrical Inspection, or which would overload the electrical system or any part thereof beyond its capacity for proper, efficient and safe operation, taking into consideration the overall electrical system and the present and future requirements for the Facility. Concessionaire shall not furnish any cooling or heating to the Facility, including, without limitation, the use of any electronic or gas heating devices, fans or space heaters, without the County's prior written approval.
- G. Fire Regulations. Concessionaire will comply with all applicable fire regulations. Concessionaire also shall provide the County with the name(s) of a designated responsible employee to represent Concessionaire in all matters pertaining to fire regulations. Concessionaire shall supply and have easily accessible at least one (1) fully charged fire extinguisher at the Facility, or as may otherwise be required by applicable fire codes, laws, and regulations.
- H. Health Regulations. Concessionaire will comply with all applicable Federal, State, County and local health and sanitation regulations. Further, the Concessionaire shall fully comply with the Code of the King County Board of Health, Title 5 and Title R5, including any requirement to obtain a valid permit to operate a food-service establishment issued to such person by Public Health Seattle & King County and the requirement to submit properly prepared plans and specifications to Public Health Seattle & King County for its plan approval. Concessionaire is solely responsible for

determining the applicable regulatory requirements and maintaining compliance. Concessionaire shall provide King County a copy of all required Health Permits before the Concessionaire begins operations.

- I. Nuisance. Concessionaire shall not use, keep or permit to be used or kept any noxious gas or substance at the Facility, or permit the Facility to be occupied or used in a manner that is offensive or objectionable to the County or other occupants of the Park by reason of noise, odors and/or vibrations, or interfere in any way with other concessionaires or those having business at the Facility, the Common Area, the Grounds, or the Park. Concessionaire shall not make or permit to be made any disturbing noises or disturb or interfere with Park users, provided however, subject to a prior written request to and approval by the County, on special occasions the Concessionaire may use sound amplification, limited to music. The County may withdraw its approval at any time and at its sole discretion.
 - J. Communication Service. Concessionaire understands and agrees that broadband service may not be available in the vicinity of the Park. Concessionaire is solely responsible for securing the requisite broadband, phone, or internet service(s) necessary to operate the Facility.
 - K. Non-Smoking Facility. The Park is a non-smoking, tobacco-free facility. Concessionaire shall prohibit smoking and use of tobacco products and/or E-cigarettes in the entirety of the Facility.
 - L. Concessionaire Advertising. Concessionaire may use the name of the Park in connection with or in promotion or advertising the business of Concessionaire. Flyers, brochures, and other materials promoting Concessionaire's business will be allowed at the Park with prior approval from the County's Liaison, which approval shall not be unreasonably withheld, conditioned or delayed. Advertising in the interior of the Facility by the Concessionaire is allowed subject to review and approval by the County's Liaison.
 - M. Soliciting. Concessionaire shall not canvass Park users, or solicit business, or distribute handbills or any other written material in the Park, and peddling in the Facility or on the Grounds is prohibited, without the prior written approval from the County.
 - N. Disorderly Conduct. The County reserves the right to exclude or expel from the Park any person who, in the judgment of the County, is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of any of the rules and regulations of the Park.
 - O. Reserved
 - P. Concessionaire's Compliance. Concessionaire shall be responsible for the observance of all of the foregoing conditions by Concessionaire's authorized representatives and employees.
22. LIAISONS. A representative of the Director of the King County Parks and Recreation Division ("County Liaison") shall represent the County and a representative from Concessionaire ("Concessionaire Liaison") shall represent Concessionaire on all matters

related to this Agreement. Each Liaison may designate an operational contact for purposes of day-to-day scheduling and working arrangements.

County Liaison is:

Ryan Dotson, Business Development Manager
201 South Jackson Street, Suite 700
Seattle, WA 98104-3855
206-477-4562 or ryan.dotson@kingcounty.gov

Concessionaire Liaison is:

Jennifer D'Agostino, Director
Go Ape Cougar-Squak LLC
241 East 4th Street, Suite 105
Frederick, MD 21701
301-325-5464 or jenny@goape.com

23. PLANNING AND OPERATIONAL MEETINGS. County's Liaison shall be authorized to speak on its behalf with respect to the operation, improvement, planning and development of the Facility, Grounds, or Common Area. County's Liaison or designee shall meet with the Concessionaire's Liaison, at minimum, annually or as otherwise agreed, to exchange, review and discuss policies, plans, levels of scheduled use and operation procedures for the Facility.
24. INDEMNITIES AND HOLD HARMLESS.
- A. Concessionaire agrees to indemnify and hold County harmless as provided herein to the maximum extent possible under law. Accordingly, Concessionaire agrees for itself, its successors, and assigns, to defend, indemnify, and hold harmless County, its appointed and elected officials, and employees from and against liability for all claims, demands, suits, and judgments, including costs of defense thereof for injury to persons, death, or property damage which is caused by, arises out of, or is incidental to Concessionaire's exercise of rights and privileges granted by this Agreement, except to the extent of the County's sole negligence. Concessionaire's obligations under this subsection shall include:
1. The duty to promptly accept tender of defense and provide defense to County at Concessionaire's own expense;
 2. Indemnification of claims made by the Concessionaire's own employees or agents; and,
 3. Concessionaire expressly and specifically waives Concessionaire's immunity under the industrial insurance provisions of Title 51 RCW but only to the extent necessary to fully indemnify County, which waiver has been mutually negotiated by the Parties.
- B. In the event it is necessary for County to incur attorney's fees, legal expenses or other costs to enforce the provisions of this Section, all such fees, expenses and costs shall be recoverable from Concessionaire.
- C. In the event it is determined that RCW 4.24.115 applies to this Agreement, Concessionaire agrees to defend, hold harmless, and indemnify County to the

maximum extent permitted thereunder, and specifically for its negligence concurrent with that of the County to the full extent of Concessionaire's negligence.

- D. A hold harmless provision to protect King County similar to this provision shall be included in all contracts entered into by Concessionaire in conjunction with this Agreement and Concessionaire shall require its contractors to include a hold harmless provision to protect King County similar to this Section 24 in subcontracts for service provided relating to the Concessionaire's rights and obligations under this Agreement.
25. PROPERTY INSURANCE. Concessionaire will carry fire and extended coverage insurance with business interruption endorsement in an amount equal to the full replacement value of all improvements (Facility, its subsequent improvements, and Concessionaire's personal property located on the Grounds) and six (6) months rental interruption. The policy shall include County as an insured. A current certificate of insurance must be on file with County. County will not carry insurance on the Facility or Concessionaire's personal property. Such policy shall contain a Waiver of Subrogation clause in favor of the County.
26. LIABILITY INSURANCE REQUIREMENTS. By the date of execution of this Agreement, the Concessionaire shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the exercise of the rights and privileges granted by this Agreement, by the Concessionaire, its agents, assignees, representatives, employees, or contractors. The cost of such insurance shall be paid solely by the Concessionaire, and not by the County.
- A. Commercial General Liability. Concessionaire shall obtain commercial general liability insurance against claims for injuries to persons or damages to property that may arise from or in connection with the Concessionaire's use of the Facility at the Park. General liability insurance shall be as broad as that provided by Commercial General Liability "occurrence" form CG 00 01 (current edition). The insurance limits shall be no less than FIVE MILLION DOLLARS (\$5,000,000) combined single limit per occurrence and FIVE MILLION DOLLARS (\$5,000,000) in the aggregate for bodily injury and property damage. This limit can be met by a combination of General Liability and Umbrella policies.
- B. Automobile Liability. Insurance Services form number CA 00 01 (current edition). The Limit of Liability shall be no less than ONE MILLION DOLLARS (\$1,000,000) per occurrence.
- C. Workers Compensation/Stop Gap. If Concessionaire has employees, Concessionaire shall provide Statutory Workers Compensation coverage and Stop Gap Liability for a limit no less than FIVE MILLION DOLLARS (\$5,000,000). This limit can be met by a combination of General Liability and Umbrella policies.
- D. Endorsements. The required insurance policy(ies) (except Workers Compensation) is/are to be **endorsed to**:
1. Name King County, its officers, officials, employees and agents as additional insureds; Additional insured status shall include both premises operations and

- products-completed operations and extend for a period of three (3) years after agreement termination.
2. State that Concessionaire and/or subcontractors insurance shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability;
 3. State that coverage shall not be suspended, voided, canceled, reduced in coverage or limits except after forty-five (45) days prior written notice to the County; and
 4. State that coverage (General Liability, Auto and Liquor Legal) shall be primary and non-contributory as to the County.
- E. Other Insurance Requirements. Concessionaire's insurance provider must be licensed to do business in the State of Washington and have a Best's rating of A:VIII or better. Deductible or self-insured retention levels must be declared to and approved by the County. The deductible and/or self-insured retention of the policies shall not limit or apply to Concessionaire's liability to the County and shall be the sole responsibility of the Concessionaire. If at any time, of the foregoing policies shall be or become unsatisfactory to the County, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the County, the Concessionaire shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the County, with the appropriate certificates and endorsements for approval.
- F. Proof of Valid Insurance. Current, valid Certificates of Insurance and required policy endorsements shall be provided to the County on or before the date that Concessionaire executes this Agreement and a current certificate and endorsements shall be provided each policy year. Certificate(s) of insurance and endorsement(s) shall be attached to this Agreement as **Exhibit F**. Upon written request of the County at any time during the Term or any extension of it, Concessionaire shall provide a duplicate of the policy as evidence of insurance protection.
- G. Insurance Provisions Material. Concessionaire understands, acknowledges, and agrees that the insurance provisions of this Section are material, and that if Concessionaire fails to comply with any of them, then the County may terminate this Agreement pursuant to and consistent with Section 28 herein.
27. MUTUAL RELEASE AND WAIVER. To the extent a loss is covered by property insurance in force, the County and Concessionaire hereby mutually release each other from liability and waive all right of recovery against each other for any loss from perils insured against under their respective fire insurance policies, including any extended coverage endorsements hereto; provided that this provision shall be inapplicable if it would have the effect of invalidating any insurance coverage of the County or the Concessionaire.
28. TERMINATION.
- A. Convenience. This Agreement may not be terminated under this subsection before the third (3rd) anniversary of the date that Concessionaire opens for business at the Facility. Thereafter, the County may terminate this Concession Agreement due to closure of the Park or transfer of the Park, or for any reason the County determines

appropriate in its sole discretion. In the event that the County terminates this Agreement, Concessionaire shall be entitled to reasonable compensation from King County for capital improvements made by Concessionaire to the Park with due regard for the funds invested by Concessionaire and the length of time Concessionaire has had use of the Facility. Consistent with Section 32 of this Agreement, if the Parties cannot agree on the amount of compensation due, then the Parties shall attempt to resolve the dispute through non-binding mediation before commencing litigation regarding the amount of compensation due. In the event County terminates this Agreement pursuant to this subsection, County shall give Concessionaire one hundred and eighty (180) days' prior written notice of termination of this Agreement.

- B. Default. If either Party breaches this Agreement, then the other Party may initiate termination of this Agreement by delivering a notice of intent to terminate to the defaulting Party. Except as otherwise provided herein, if the basis for termination is a failure to perform that can be cured, the termination shall not take effect so long as the defaulting party either (1) cures the default within thirty (30) days of service of the notice of intent to terminate, or (2) provides the terminating Party within said thirty (30) day period a detailed written action plan to cure the default within sixty (60) days of service of the termination notice and then cures the default within said sixty (60) day period ("Cure Period"). Unless the default is remedied during the Cure Period, the Party that issued the notice of intent to terminate may terminate this Agreement by delivering a termination notice to the defaulting party, and this Agreement shall terminate on the date set forth in the termination notice. No Cure Period shall be provided in the event the Concessionaire commits fraud, files for bankruptcy, or when protection of the public's health, welfare or safety requires immediate termination by the County.
- C. 1. Required Approvals. In the event that Concessionaire is unable to obtain the licenses, permits or consents required to construct and operate the Facility within eighteen (18) months of the Effective Date, either Party may terminate this Agreement, and the Security Deposit and all money paid in advance by the Concessionaire to the Parks and Recreation Division shall be returned, and Concessionaire shall have no further liability hereunder.
2. Concessionaire Termination. If Concessionaire determines that it cannot reasonably continue to operate the Facility, Concessionaire may terminate this Agreement after giving King County one hundred and eighty (180) days' advance written notice of termination.
- D. Appropriation. County funding in support of this Agreement beyond the 2015-2016 biennium is conditioned upon appropriation by the County Council of sufficient funds to undertake the activities described in this Agreement. The sufficiency of any such appropriation shall be determined by the County in its sole discretion. Should such an appropriation not be approved, this Agreement shall terminate at the close of the current appropriation biennium.
- E. Concessionaire's Waiver of Rights Upon Termination by County. Concessionaire hereby expressly waives the right to claim or recover against the County and/or any official, employee, or representative thereof for any damages whatsoever incurred due to termination by the County except as provided in Section 28.A.

29. SURRENDER OF GROUNDS; REMOVAL OF FACILITY. At the expiration or earlier termination of this Agreement, Concessionaire shall promptly surrender possession of the Grounds to the County. The Grounds shall be surrendered to the County in as good a condition as on the date the Concessionaire took possession, except for the effects of reasonable wear and tear, alteration and repairs made with approval of the County, or property damage by fire or other perils insured in contracts or policies as required herein.

No later than sixty (60) days after expiration or termination of this Agreement, and except for those on-ground improvements and alterations the County elects to assume ownership under subsection 14.F, Concessionaire shall remove from the Grounds, together with any and all other materials, equipment, goods, and effects belonging to the Concessionaire and/or its employees (collectively "Personal Property"). Before removing the Facility the Concessionaire will give the County first right of refusal to purchase those portions of the Facility not covered by Section 14.F for a price determined by an agreed upon appraiser. If the Concessionaire fails to remove the Facility or other Personal Property by the above-stated date, and in addition to funds available under the Security Deposit, the County shall have the right to remove, store, sell, and/or destroy such property at the sole expense of the Concessionaire and shall have a lien thereon for the cost incurred, which lien may be enforced by sale upon thirty (30) days' written notice.

30. DEFAULTS AND RE-ENTRY. If the County terminates this Agreement based on Concessionaire's default pursuant to Section 28.B, and the Concessionaire fails to timely remove the Facility and/or other Personal Property as set forth in Section 29, above, then the County may re-enter the Facility using such methods as may be required. Notwithstanding such re-entry by the County, Concessionaire shall remain liable for the Term year Annual Minimum contract fee as provided herein. Concessionaire further covenants and agrees to make good to the County any deficiency arising from a re-entry and re-use of the Facility by another Concessionaire at a lesser contract fee than agreed to herein. The Concessionaire shall pay such deficiency each month as the amount thereof is ascertained by the County. If it becomes reasonably necessary to make any changes, alterations, or additions to the Facility or any part thereof for the purpose of re-using said Facility or any part thereof, Concessionaire shall also be responsible for such cost, PROVIDED, that Concessionaire's total liability under this Section shall not exceed an amount equal to one-half of the Annual Minimum for the Term year. In no event shall the County seek to accelerate payment of the contract fee upon Concessionaire's default.
31. ADVANCES BY THE COUNTY FOR CONCESSIONAIRE. If Concessionaire fails to pay any fees or perform any of its obligations under this Agreement other than payment of contract fee, the County will mail notice to Concessionaire of its failure to pay or perform. Thirty (30) days after mailing notice, if Concessionaire's obligation remains unpaid or unperformed, the County may, in its sole discretion, pay or perform these obligations at Concessionaire's expense. Upon written notification to Concessionaire of any costs incurred by the County under this Section, Concessionaire will reimburse the County within twenty (20) days.

32. DISPUTE RESOLUTION. Before either Party initiates litigation or other legal proceeding against the other, (1) the Parties will attempt in good faith to resolve through negotiations any dispute, claim or controversy arising out of or relating to this Agreement, and (2) if the claiming Party deems such negotiations unsuccessful, the Parties shall attempt to resolve the dispute, claim or controversy through non-binding mediation.
33. ACCESS AND BUSINESS INTERRUPTION. County reserves the right to enter the Facility to repair or install utilities or improvements associated with the other portions and uses of the Grounds, Common Area or Park. The County also reserves the right to limit the public's access to the Facility, Grounds, Common Area or Park in exercise of its police powers or other legal authority or to allow uses of them that may impede public access to the Common Area. Concessionaire shall not be entitled to any damages from business interruption caused by these activities of the County. However, County will consider requests for temporary reduction in the contract fee.
34. TOTAL OR PARTIAL DESTRUCTION OF FACILITY. If at any time during the term of this Agreement the Facility or any improvements to the Facility subsequently constructed by the Concessionaire are totally or partially destroyed, the Concessionaire shall have the obligation to reconstruct such facilities to their original condition within twelve (12) months after their destruction. County shall not be responsible for any damages suffered by Concessionaire due to the total or partial destruction of the Facility and the Concessionaire shall not be relieved of its obligation to pay the applicable contract fee or reimburse the County for advances made by it.
35. INSPECTION. County reserves the right to inspect the Facility and areas within the Common Area to which the Concessionaire shall have exclusive use under Section 5 at any and all reasonable times throughout the term of this Agreement, provided that County shall not interfere unduly with Concessionaire's operations and that County gives twenty-four (24) hours' notice, except in emergencies when no notice is needed. The right of inspection reserved to County hereunder shall impose no obligation on County to make inspections to ascertain the condition of the Facility, and shall impose no liability upon County for failure to make such inspections.
36. NO LIENS. It is understood and agreed that this Agreement is executed and delivered upon the express condition that Concessionaire will not and cannot contract any debt or debts for labor, materials, services, or otherwise which will or may become a lien against County's interest in the Facility, Grounds, Common Area, or Park, and County hereby denies to Concessionaire any right, power, or authority to do any act, or contract any obligation or liability which would in any way subject those interests of County to any lien, claim, or demand whatsoever.
37. ASSIGNMENT. Concessionaire shall not assign any of its rights under this Agreement without the prior written consent of County, which consent shall not be unreasonably withheld, conditioned or delayed. County will have the right to sell or otherwise transfer or dispose of the Park, or to assign this Agreement or any interest of County hereunder, provided that in the event of sale or transfer of the Park, County will arrange for the purchaser or transferee to assume the Agreement and the County's obligations hereunder.

County will not otherwise assign this Agreement or any interest of County hereunder unless the assignee or purchaser agrees to assume County's obligations hereunder.

38. COMPLIANCE WITH APPLICABLE LAW. In constructing, outfitting, and operating the Facility, Concessionaire shall comply with all applicable laws, ordinances and regulations from any and all authorities having jurisdiction including, to the extent applicable, those related to “public works,” payment of prevailing wages and competitive bidding of contracts. Concessionaire specifically agrees to comply and pay all costs associated with achieving such compliance without notice from the County, and further agrees that the County does not waive this Section by giving notice of demand for compliance in any instance. The Concessionaire shall indemnify and defend King County should the County be sued or made the subject of an administrative investigation or hearing for a violation of such laws related to this Agreement.
39. KING COUNTY PARKS AND RULES AND REGULATIONS. Concessionaire shall comply with the rules and regulations of the King County Parks and Recreation Division and with any such rules and regulations which may hereafter be made. If there is any question regarding the interpretation of any King County Parks rule or regulation, the County’s interpretation shall be controlling.
40. HAZARDOUS MATERIALS AND ENVIRONMENTAL COMPLIANCE.
Concessionaire shall not, without first obtaining the County's written approval, apply, store, deposit, transport, release or dispose of any hazardous substances, petroleum products, sewage, medicinal, bacteriological, or toxic materials, or pollutants, on the Facility, Common Area, Grounds or Park. All approved application, storage, deposit, transportation, release and disposal shall be done safely and in compliance with applicable laws. Concessionaire shall be fully and completely liable for any and all cleanup costs, and any and all other charges, fees, penalties, or orders, civil or criminal, imposed by any authority with respect to Concessionaire's use, disposal, transportation, generation, release, handling, spillage, storage, treatment, deposit and/or sale of hazardous substances on or about the Facility, Grounds or Park. Concessionaire promises to fully reimburse the County for any expenses, costs or fees it may incur if Concessionaire fails to comply with the terms and conditions of this Section. Concessionaire agrees for itself, its successors, and assigns to defend, indemnify and hold harmless the County, its appointed and elected officials, and employees from and against liability for any costs or claims in accordance with Section 24.
41. NONDISCRIMINATION IN EMPLOYMENT PROVISION OF SERVICES. KCC Chapters 12.16, 12.17, and 12.18 are incorporated by reference as if fully set forth herein and such requirements apply to this Agreement. Pursuant to KCC Chapter 12.16, during the performance of this Agreement, neither the Concessionaire nor any party subcontracting under the authority of this Agreement shall discriminate or tolerate harassment on the basis of race, color, sex, religion, national origin, marital status, sexual orientation, gender identity or expression, the presence of any sensory, mental, or physical disability, or age except by minimum age and retirement provisions, in the employment or application for employment or in the administration or delivery of services or any other benefits under this Agreement.

42. NONDISCRIMINATION IN SUBCONTRACTING PRACTICES. Pursuant to KCC Chapter 12.17, during the solicitation, award and term of this Agreement, the Concessionaire shall not create barriers to open and fair opportunities to participate in County contracts or to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction or services. In considering offers from and doing business with subcontractors or suppliers, the Concessionaire shall not discriminate against any person on the basis of race, color, age, gender, marital status, sexual orientation, religion, ancestry, national origin or the presence of any mental or physical disability in an otherwise qualified disabled person.
43. FAIR EMPLOYMENT PRACTICES. Pursuant to KCC Chapter 12.18, during the performance of this Agreement, neither the Concessionaire nor any party subcontracting under the authority of this Agreement shall engage in unfair employment practices.
44. COMPLIANCE WITH LAWS AND REGULATIONS. The Concessionaire shall comply fully with all other applicable federal, state and local laws, ordinances, executive orders and regulations that prohibit discrimination. These laws include, but are not limited to, Chapter 49.60 RCW, Titles VI and VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Restoration Act of 1987.
45. SANCTIONS FOR VIOLATIONS. Any violation of the mandatory requirements of the provisions of Sections 41 through 44 shall be a material breach of this Agreement for which the Concessionaire may be subject to damages and any other sanctions provided for by the Agreement and by applicable law.
46. SECTION 504 AND AMERICANS WITH DISABILITIES WITH DISABILITIES ACT. If required by Federal or State law, the Concessionaire shall complete a 504/ADA Self-Evaluation Questionnaire for all programs and services offered by the Concessionaire (including any services not subject to this Agreement) and shall evaluate its services, programs and employment practices for compliance with Section 504 of the Rehabilitation Act of 1973, as amended (“504”) and the ADA. Concessionaire shall complete a 504/ADA Assurance of Compliance, and corrective action plan as needed for structural, programmatic, and/or service changes necessary at each of its Facility within the State of Washington to comply with 504 and the ADA.
47. INDEMNIFICATION FOR NONDISCRIMINATION VIOLATIONS. See Section 24.
48. NON-COMPETITION. During the Term of this Agreement, County will authorize no other party to provide similar services offered by Concessionaire within the Park.
49. HEIRS, AGENTS, AND ASSIGNS. Without limiting any provisions of this Agreement pertaining to assignment, the County and Concessionaire agree that the provisions of this Agreement are intended to bind their heirs, successors, agents and assigns.
50. CAPTIONS. The captions in this Agreement are for convenience only and do not in any way limit or amplify the provisions of this Agreement.

51. EVERY PROVISION IS MATERIAL. Each term of this Agreement is material. A breach by Concessionaire of any one of the terms of this Agreement shall be considered to be a material breach of the entire Agreement and shall be grounds for County to terminate the entire Agreement.
52. TIME IS OF THE ESSENCE. Time is of the essence of this Agreement, and in the event of the failure of Concessionaire to pay any charges at the time in the manner herein specified, or to keep any of the covenants or agreements herein set forth, Concessionaire shall be in default.
53. CUMULATIVE REMEDIES. No provision of this Agreement precludes County from pursuing any other remedies for Concessionaire's failure to perform his obligations.
54. ATTORNEY'S FEES/COLLECTION CHARGES. In the event legal action other than non-binding mediation under Section 32 is brought by either party to enforce any of the terms, conditions, or provisions of this Agreement, the prevailing party shall recover against the other Party in addition to the costs allowed by law, such sum as the court may adjudge to be a reasonable attorney's fee.
55. HOLDING OVER. If Concessionaire holds over after the expiration or earlier termination of the Agreement's term without the express written consent of County, then Concessionaire shall become a Concessionaire at sufferance only, at a contract fee rate equal to one hundred-fifty percent (150%) of the contract fee in effect upon the date of such expiration (prorated on a daily basis), and otherwise subject to the terms, covenants, and conditions herein specified so far as applicable. Acceptance by County of contract fee after such expiration or earlier termination shall not result in a renewal of this Agreement, nor affect County's right of re-entry or any rights of County hereunder or as otherwise provided by law. If Concessionaire fails to timely remove the Facility upon the expiration of this Agreement despite demand to do so by County, Concessionaire shall indemnify and hold County harmless from all loss or liability including, without limitation, any claim made by any succeeding concessionaire founded on or resulting from the Concessionaire's failure to surrender, and together with interest, attorney's fees, and costs.
56. POWERS OF THE COUNTY. Nothing contained in this Agreement shall be considered to diminish the governmental or police powers of the County.
57. IMPOSSIBILITY. The Parties shall not be responsible for their failure to perform their obligations described herein if County's performance is rendered impossible or impracticable due to strikes, walk-outs, acts of God, inability to obtain labor, materials, or services, government restrictions, enemy action, civil commotion, fire, unavoidable casualty, or similar causes beyond the control of the Parties. Furthermore, County shall not be responsible for any damages arising from its failure to provide Concessionaire access to or use of the Facility available for Concessionaire's use where such performance is rendered impossible or impracticable due to County's closure of the Park, Grounds or Facility to the public or transfer of the Park or a portion thereof, except the Concessionaire

may be entitled to a contract fee reduction during such period in accordance with Section 33.

58. SEVERABILITY. If any term or provision of this Agreement or the application of any term or provision to any person or circumstance is invalid or unenforceable, the remainder of this Agreement, or the application of the term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected and will continue in full force.
59. NON-WAIVER. Waiver of any breach of any term or condition of this Agreement shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Agreement shall be waived, modified or deleted except by an instrument, in writing, signed in advance by the Parties.
60. NO PARTNERSHIP. Nothing contained herein shall make, or be deemed to make, County and Concessionaire a partner of one another, and this Agreement shall not be construed as creating a partnership or joint venture.
61. NO THIRD-PARTY BENEFICIARIES. Nothing in this Agreement shall create, or be deemed to create, any legal right, obligation, or cause of action in any person or entity not a party to it.
62. AGREEMENT LIMITATIONS. It is understood and agreed that this Agreement only grants a concession agreement, and not a lease. This Agreement shall only confer permission to occupy and use the Facility as described in this Agreement. Concessionaire's expenditure of capital and/or labor in the course of use and occupancy shall not confer any interest or estate in the Facility or Park by virtue of said use, occupancy and/or expenditure of money thereon. The sole privilege granted from County to Concessionaire is a personal and revocable privilege of use in the Facility for the concession described herein.
63. PUBLIC DISCLOSURE OF AGREEMENT. This Agreement shall be considered a public document and will be available for inspection and copying by the public. If Concessionaire considers any portion of documents delivered to County to be protected under law, Concessionaire shall clearly identify each such portion with words such as "CONFIDENTIAL," "PROPRIETARY" or "BUSINESS SECRET." If a request is made for disclosure of portions so marked, the County will notify the Concessionaire and of the date that the County will disclose such marked portions, which shall not be less than ten (10) days from the date of such notice unless, pursuant to RCW 42.56.540 the Concessionaire obtains a court order directing the County to withhold such marked portions.

If Concessionaire fails or neglects to take such action within said period, County will release the portions of the Agreement deemed subject to disclosure. By entering into this Agreement, Concessionaire agrees to the procedure outlined in this Section and shall have no claim against County on account of actions taken under such procedure. While Concessionaire's failure to specifically identify portions of documents as

“CONFIDENTIAL,” “PROPRIETARY” or “BUSINESS SECRET” may not diminish Concessionaire’s proprietary rights in its trade secrets and other confidential information identified in those documents, the County will not be liable to Concessionaire for releasing such unmarked documents pursuant to a disclosure request.

64. ENTIRE AGREEMENT; AMENDMENTS. This printed Agreement together with the attached exhibits expressly incorporated herein by reference and attached hereto shall constitute the whole Agreement between the Parties. There are no terms, obligations, covenants or conditions other than those contained herein. No modification or amendment of this Agreement shall be valid or effective unless evidenced by an Agreement in writing signed by the Parties.
65. NOTICES. Required notices except legal notices shall be given in writing to the following respective address:

If to County:

King County Parks & Recreation
Division Director
201 S. Jackson Street, Suite 700
Seattle, WA 98104-3855

If to Concessionaire:

Go Ape Cougar-Squak LLC
Attn: Jenny D’Agostino
241 East 4th Street, Suite 105
Frederick, MD 21701

In the event a Party’s Liaison changes, the Party shall notify the other of the change. Such notice shall state the name of the replacement Liaison, her/his title, mailing address, phone number(s), and email address. Notices sent by mail shall be deemed to have been given when properly mailed.

66. MUTUAL NEGOTIATION; CONSTRUCTION. County and Concessionaire have mutually negotiated the terms and conditions of this Agreement. County and Concessionaire agree that the Agreement shall not be construed against either of them.
67. CHOICE OF LAW; JURISDICTION AND VENUE. County and Concessionaire agree that Washington State law will govern this Agreement. County and Concessionaire agree that the King County Superior Court, in Seattle, Washington, will have jurisdiction to hear any litigation regarding this Agreement; and County and Concessionaire further agree that the King County Superior Court in Seattle will be the sole and proper venue in which to bring any litigation regarding this Agreement.
68. EXHIBITS. The following attachments are exhibits to this Agreement:
- A. Map of Cougar Squak Corridor Park
 - A-1 General Depiction of Grounds with Parcel Numbers
 - B. Map of Facility and Grounds
 - C. Treetop Adventure Course: Plan, Layout, and Description
 - D. Concessionaire’s Hours of Operating, Approved List of Goods, Services, and Prices
 - E. Concessionaire and County Emergency Contact Information
 - F. Concessionaire Insurance Certificate(s) and Endorsement(s)
 - G. Go Ape Cougar-Squak LLC – Concessionaire Reporting Form
 - H. Confirmation of Term

IN WITNESS WHEREOF, the County and Concessionaire have executed this agreement on the dates specified below.

GO APE COUGAR-SQUAK, LLC

KING COUNTY

Dan D'Agostino, Managing Director

Kevin R. Brown, Director
Parks and Recreation Division

Date

Date

APPROVED AS TO FORM:

By: _____
Thomas W. Kuffel
Senior Deputy Prosecuting Attorney

STATE OF MARYLAND)
) ss
COUNTY OF FREDERICK)

On this day personally appeared before me _____ to me known
to be the _____ of the _____ that executed the
foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and
deed of said corporation for the uses and purposes therein mentioned and that he was authorized to
execute the said instrument.

GIVEN under my hand and official seal this _____ day of _____, 2015.

NOTARY PUBLIC in and for the State of
Maryland residing at _____

My appointment expires _____

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

I certify that _____ signed this instrument, on oath stated that (he/she) was
authorized by the **King County Executive** to execute the instrument, and acknowledged it as the
Manager, Property Services of King County, Washington to be the free and voluntary act of said the
County for the uses and purposes mentioned in the instrument.

Date: _____

NOTARY PUBLIC in and for the State of
Washington residing at _____

My appointment expires _____

Exhibit A

Map of Cougar Squak Corridor Park

Map of Park, including location of Grounds

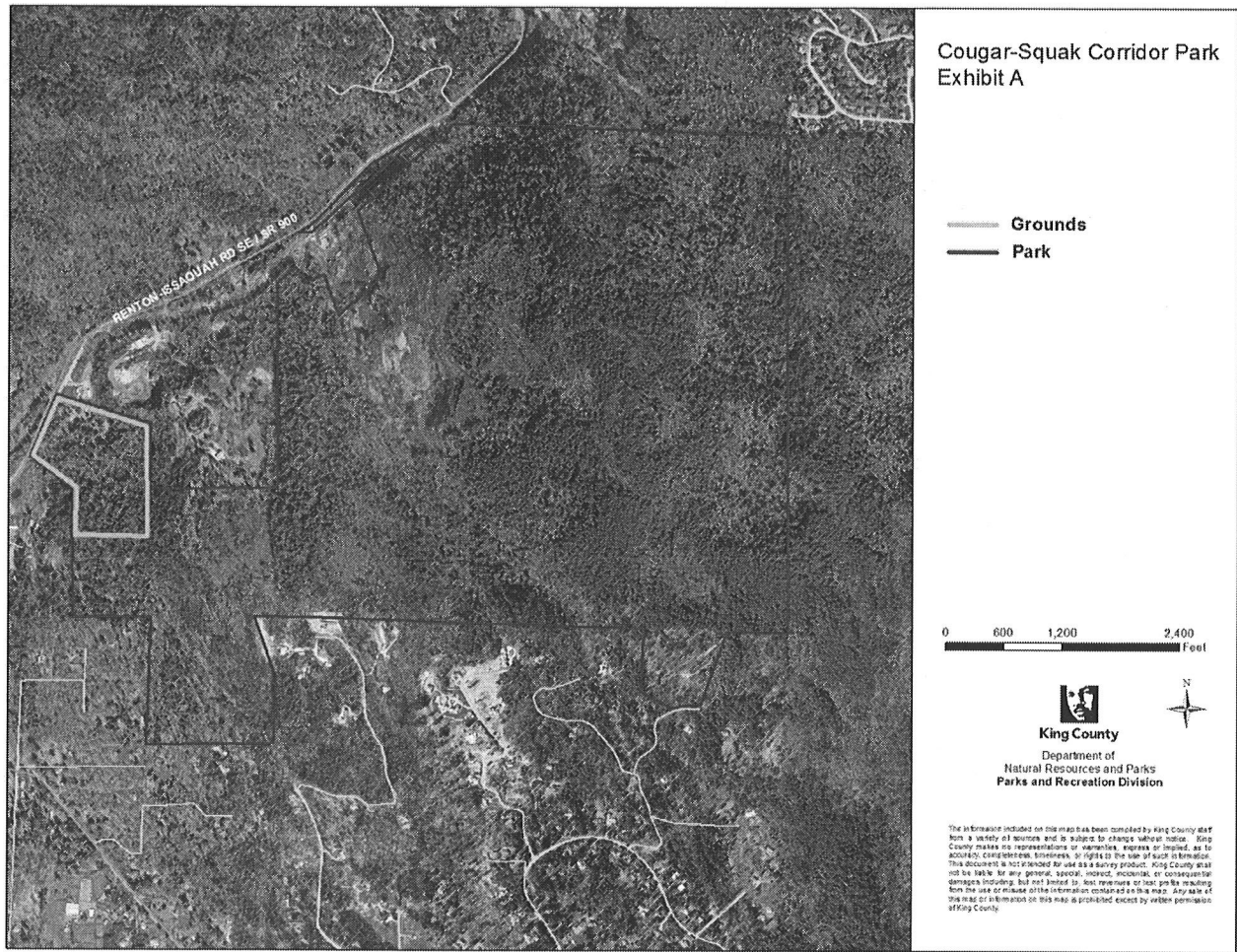


Exhibit A-1

Map of Cougar Squak Corridor Grounds

General Location of Grounds

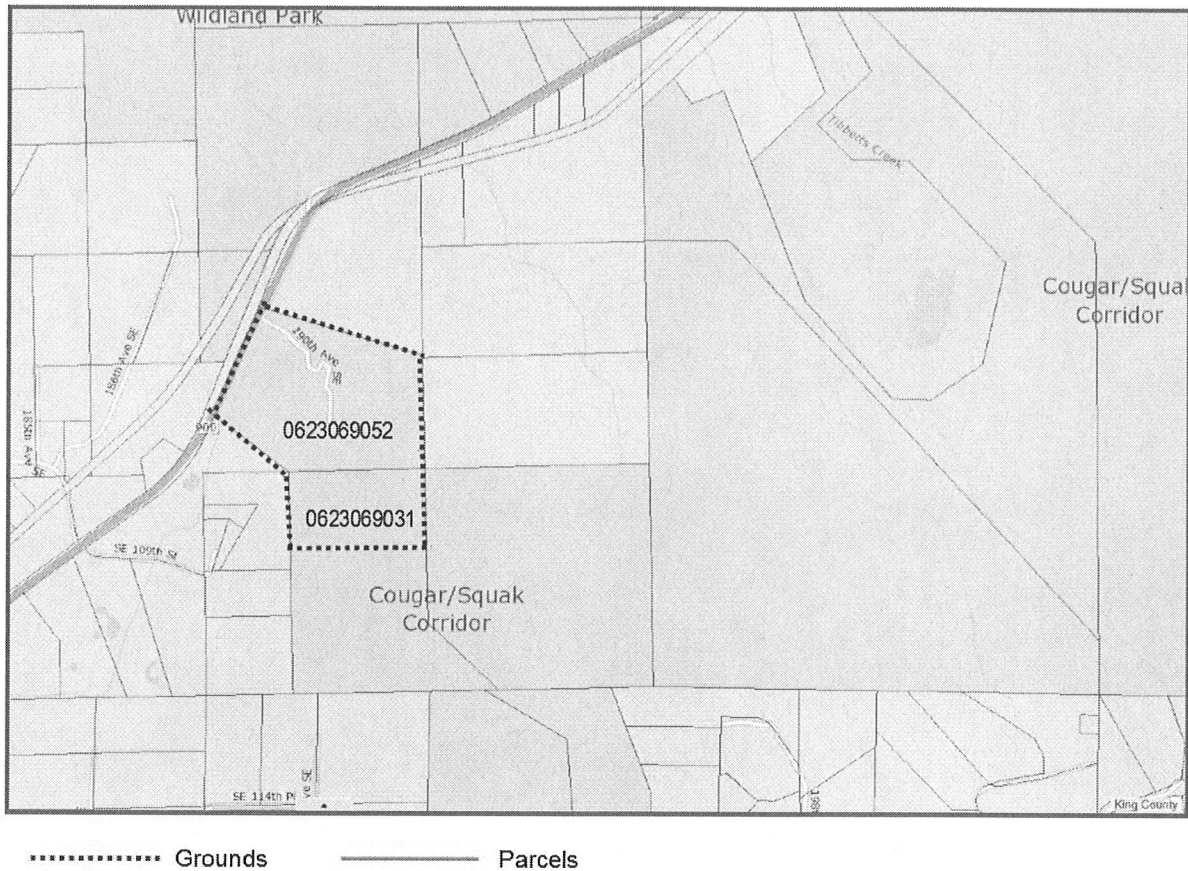


Exhibit B

Map of Facility and Grounds

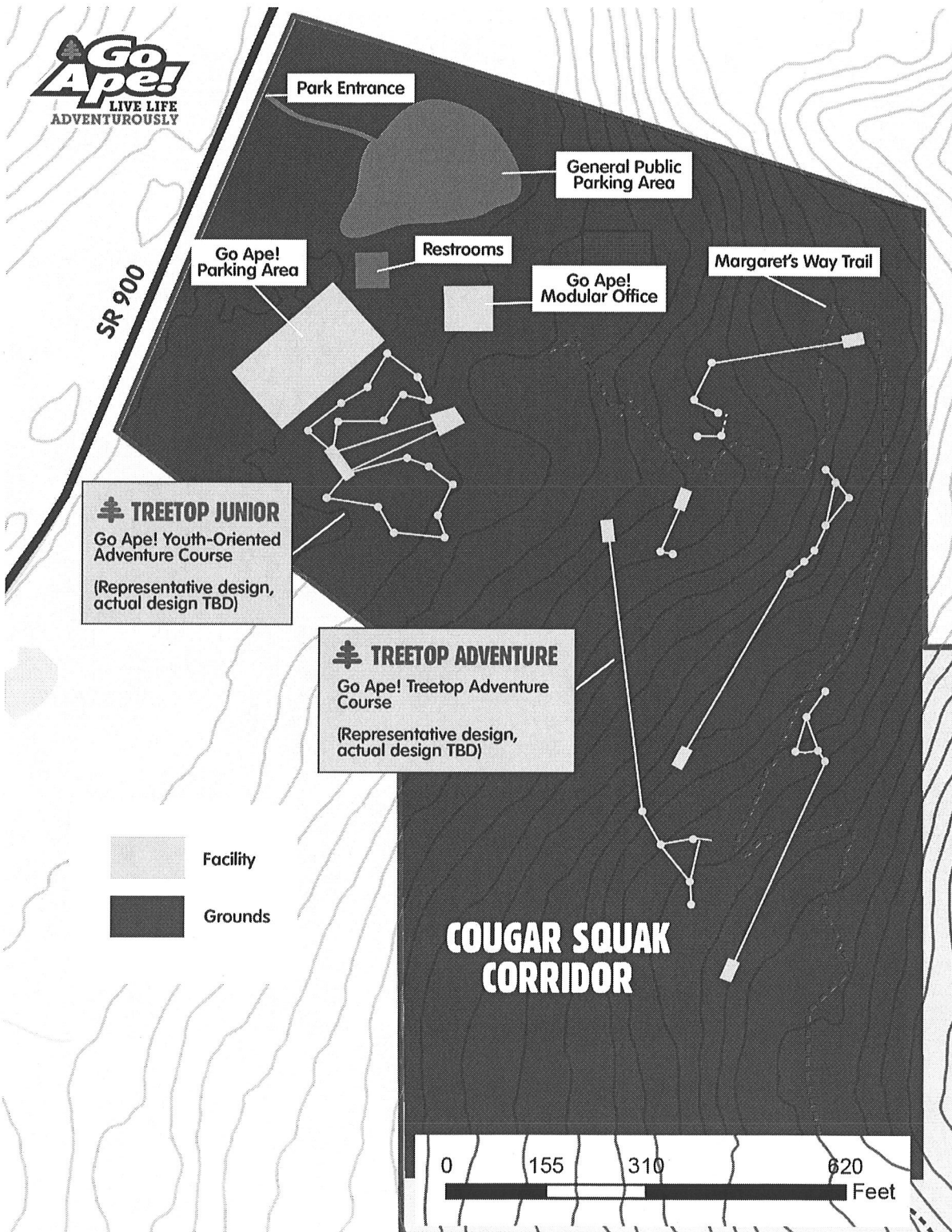


Exhibit C

Treetop Adventure Course: Plan, Layout, and Description

Final design depends on the trees and the area involved. We try to design in such a way as to limit the number of trees impacted. The attached drawings and images are provided for reference purposes only.

The treetop adventure course typically consists of 5-6 sites. There is a pre-brief site used to familiarize guests with the safety equipment and safety system. The first site is considered part of training and only consists of 3 elements (rope ladder, amazon bridge and a zip line). Sites 2 through 5 consist of more obstacles and sometimes decision points depending on the number of available healthy trees. Guests walk on trails to access the various sites.

The treetop junior course is typically 2-3 loops of obstacles with 2 zip lines. There are approximately 25 obstacles depending on the number of available healthy trees. The obstacle offerings are the same as those on the treetop adventure course. The difference is that the junior course uses a continuous belay safety system and the activities start from a centralized platform.

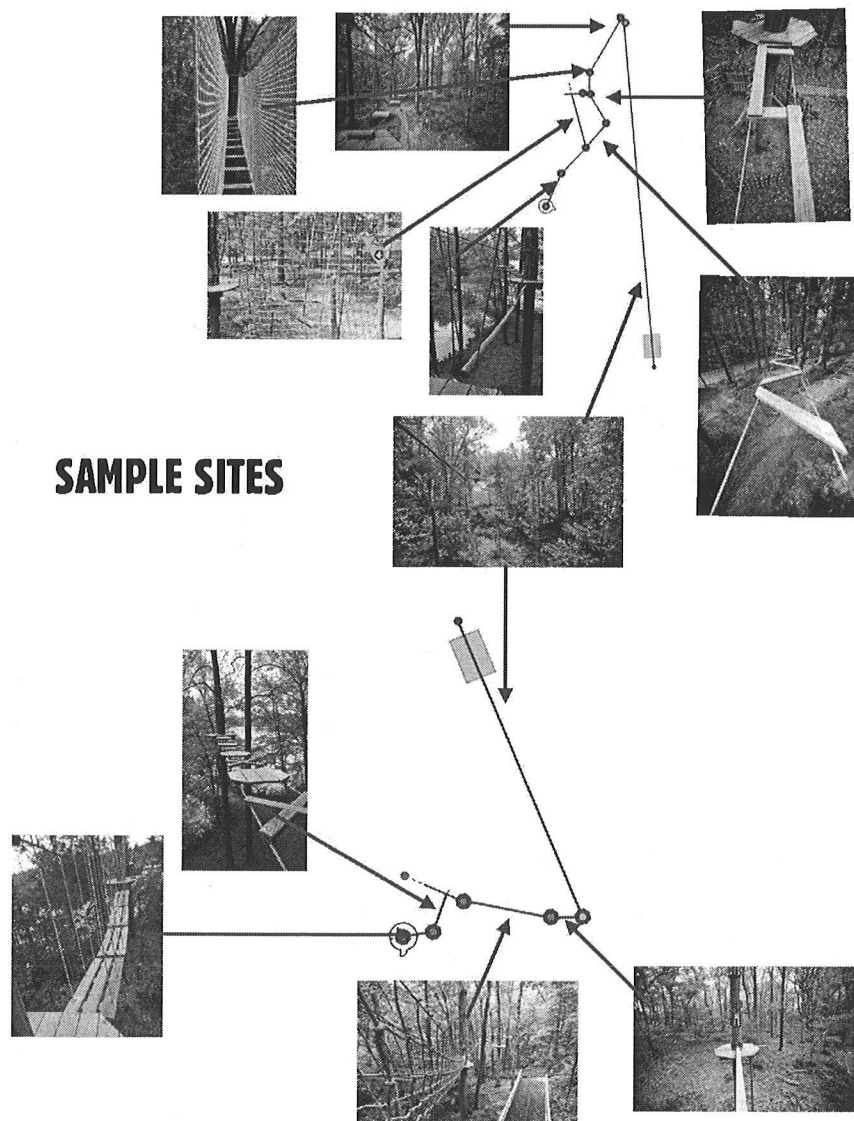


Exhibit D

Concessionaire's Hours of Operation, Approved List of Services, Merchandise, and Prices

Hours of Operation (subject to demand and weather)

<u>In-Season</u>	Mid-June through the end of August; 7 days a week 9:00 A.M. until three hours before dusk
<u>Off-Season</u>	March or April to Mid-June and September to November; 2-5 days a week, with possible 7 day a week opening for Spring break and/or other breaks and holidays 9:00 A.M. until three hours before dusk

Approved List of Services and Prices

<u>Operation of Treetop Adventure Course</u>		<u>Duration</u>
Treetop Adventure (adult)	\$58	2-3 hours
Treetop Adventure (youth)	\$38	1-2 hours

Approved List of Sales Merchandise and Prices

<u>Approved Sales Merchandise and Prices</u>	
T-shirts	\$15
Nalgene Bottle	\$10
Lanyard	\$6
Gloves	\$6
Poncho	\$3
Beverages	\$2
Snacks / Ice Cream	\$2-4

Exhibit E

Concessionaire and County Emergency Contact Information

Concessionaire Emergency Contacts

Jenny D’Agostino, Director	301-325-5464
Chris Swallow, Director	415-553-0769
Dan D’Agostino, Director	301-300-0710

King County Parks Staff Emergency Contacts

Duane-Jay Evans, Parks District Maintenance Coordinator	206-391-1932
After-Hours Maintenance/Parking Staff	206-669-8931

Exhibit F

Concessionaire Insurance Certificate(s) and Endorsement(s)

Upon signature, certificate will be inserted into the document.

Exhibit G

Gross Receipts Report

Go Ape Cougar-Squak LLC – Year-End Payment Form

Reporting Period: _____

Example: Dec. 15, 2018

- | | | |
|--|--|-------|
| 1. Total Receipts (for the calendar year) | (\$1,360,000.00) | _____ |
| 2. Refunds & Credits (see Section 8.A.2) | (\$19,000.00) | _____ |
| a. Enter Line 1 <u>less</u> Line 2 | (\$1,341,000.00) | _____ |
| 3. Gross Receipts (line 2a <u>divided</u> by 1.086)
(a/o October 2015, sales tax is 8.6%; www.dor.wa.gov; confirmation code <i>E16CF5E3A0</i>) | (\$1,234,806.63) | _____ |
| 4. Percentage of Gross Receipts (see Section 8.A.3)
(line 3b <u>times</u> applicable Gross Receipts %) | (\$123,480.66)
(\$1,234,806.63 x 10%) | _____ |
| 5. Enter Annual Minimum (see Section 8.A.1) | (\$20,000.00) | _____ |
| 6. Enter greater of Line 4 or Line 5 | (\$123,480.66) | _____ |
| 7. Leasehold Excise Tax (line 6 <u>times</u> 0.1284; see Section 8.B) | (\$15,854.92) | _____ |
| 8. Amount Due (line 6 <u>plus</u> line 7) | (\$139,335.58) | _____ |

Payment is due on or before December 15 each year of the Term. Late payment may be assessed a \$50.00 late fee, and interest penalty. Please make check payable to King County Parks and delivery or mail with the completed form to:

King County Parks / Regional Scheduling
201 S. Jackson Street, #700
Seattle, WA 98104

CERTIFICATION

I, the undersigned do hereby certify, that the above Gross Receipts Report has been prepared by me, and all the financial reporting information above is complete and accurate.

Certified By _____

Date _____

Title _____

This material is available in alternate formats upon request. www.kingcounty.gov/parks

Exhibit H

CONFIRMATION OF TERM

Pursuant to Section 7.B. Term, the parties confirm that Concessionaire opened for business at the Facility on _____, 20____. Accordingly, the last day of the Term shall be _____, 20____, unless extended or sooner terminated.

GO APE COUGAR-SQUAK, LLC

KING COUNTY

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____